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HOUSE BILL 266

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Terry H. McMillan

AN ACT

RELATING TO HEALTH; ENACTING THE SCOPE OF PRACTICE ACT;  
PROVIDING FOR A PROCESS TO REVIEW THE SCOPE OF PRACTICE FOR  
CERTAIN LICENSED HEALTH PROFESSIONALS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1. SHORT TITLE.**--This act may be cited as the  
"Scope of Practice Act".

**SECTION 2. PURPOSE.**--The purpose of the Scope of Practice  
Act is to provide a procedure for:

A. objective review of proposed changes in the  
scope of practice of health professionals licensed by the state  
in order to ensure that the changes contribute to the  
improvement of the overall health of the people of New Mexico;  
and

B. submitting findings, based on an objective

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1 review, to the governor and the legislature.

2 SECTION 3. DEFINITIONS.--As used in the Scope of Practice  
3 Act:

4 A. "commission" means the New Mexico health policy  
5 commission;

6 B. "health profession" means a health-related  
7 activity or occupation licensed pursuant to Chapter 61, Article  
8 2, 3, 4, 5A, 6, 7A, 8, 9, 9A, 10, 10A, 11, 12, 12A, 12B, 12C,  
9 12D, 12E, 14A, 14B, 14C, 14D or 14E NMSA 1978;

10 C. "licensing board" means a licensing board of a  
11 specific health profession regulated pursuant to Chapter 61  
12 NMSA 1978; and

13 D. "scope of practice" means those practice  
14 activities permitted for a health profession as defined in its  
15 licensing act and rules adopted pursuant to that act.

16 SECTION 4. PROPOSED STATUTORY CHANGE--LICENSING BOARD  
17 ANALYSIS.--

18 A. A member of a licensing board or a licensee of a  
19 licensing board or any other person seeking a change in the  
20 scope of practice of a health profession shall notify the  
21 respective licensing board and request a hearing concerning the  
22 proposed change. The licensing board shall notify the  
23 commission and shall:

24 (1) collect data, including information from  
25 the applicant and all other appropriate persons, necessary to

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1 review the proposal;

2 (2) conduct a technical assessment of the  
3 proposal, if necessary with the assistance of a technical  
4 advisory group established for that specific purpose, to  
5 determine whether the proposal is in the profession's current  
6 scope of practice; and

7 (3) provide its analysis, conclusions and any  
8 recommendations, together with all materials gathered for the  
9 review, to the commission.

10 B. The person seeking the change in the scope of  
11 practice shall provide the licensing board with all information  
12 requested.

13 SECTION 5. REVIEW PANELS--APPOINTMENT--DUTIES.--

14 A. The commission shall, upon notification of a  
15 proposed change in a health profession scope of practice,  
16 appoint an ad hoc review panel of sufficient numbers and  
17 expertise to review and make recommendations on the proposed  
18 change. Each panel shall:

19 (1) include one board member of the licensing  
20 board for the health profession from which the proposed change  
21 in scope of practice originates;

22 (2) include the dean of the university of New  
23 Mexico school of medicine; and

24 (3) have at least one-fourth of its membership  
25 as individuals who have no economic interest in the profession

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1 originating the request for a change in scope of practice.

2 B. Each panel shall be chaired by the director of  
3 the commission or the director's designee, who shall be a  
4 nonvoting member. The panel shall:

5 (1) familiarize itself with the commission's  
6 rules on procedures and criteria for such reviews;

7 (2) ensure appropriate public notice of its  
8 proceedings;

9 (3) invite testimony from persons with special  
10 knowledge in the field of the proposed change;

11 (4) assess the proposal using the following  
12 criteria:

13 (a) whether proposed changes offer  
14 potential harm to the health, safety or welfare of consumers;

15 (b) if the proposed changes will benefit  
16 the health, safety and welfare of health consumers;

17 (c) what economic impact on overall  
18 health care delivery the proposed change is likely to have;

19 (d) whether potential benefits of  
20 proposed changes outweigh potential harm; and

21 (e) the extent to which the proposed  
22 changes will affect the availability, accessibility, delivery  
23 and quality of health care in New Mexico;

24 (5) conduct the analysis so as to:

25 (a) consider harm to the public in

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1 physical, emotional, economic and social contexts;

2 (b) ensure that consideration of  
3 economic and social benefit does not outweigh the potential of  
4 significant physical harm to the consumer; and

5 (c) ensure that evidence of potential  
6 harm is clearly and directly attributable to the proposal; and

7 (6) no later than September 15 of each year,  
8 provide to the governor, the New Mexico legislative council,  
9 the legislative finance committee and the legislative health  
10 and human services committee a full report, including  
11 legislative recommendations, on each proposed change in scope  
12 of practice brought before the commission during the previous  
13 fiscal year. The director of the commission shall also provide  
14 an oral presentation of the report to the legislative finance  
15 committee and the legislative health and human services  
16 committee.

17 SECTION 6. COMMISSION--SCOPE OF PRACTICE REVIEWS AND  
18 CRITERIA--POWERS AND DUTIES.--The commission shall:

19 A. notify annually each licensing board and,  
20 whenever possible, each professional association and group of  
21 health professions, of both the licensing board's and the  
22 commission's responsibilities to review proposed changes in the  
23 scope of practice of health professions;

24 B. ensure that scope of practice reviews by ad hoc  
25 review panels are conducted as public hearings with notice

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1 given pursuant to the procedures required by Subsection A of  
2 Section 12-8-4 NMSA 1978;

3 C. provide staff services to all ad hoc review  
4 panels created pursuant to Section 5 of the Scope of Practice  
5 Act; and

6 D. provide the legislature with all assistance  
7 requested on each proposed change reviewed pursuant to the  
8 Scope of Practice Act.

9 SECTION 7. RULES.--The commission and each licensing  
10 board shall promulgate such rules as are necessary to carry out  
11 the provisions of the Scope of Practice Act.